IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL Nos.1200 and 1202 of 2004

W.A.No.1200 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 22/01/2004 in W.P.No.25476 of 2003 on the file of the High Court.)

Between:

A.P.Pollution Control Board,

rep.by its Member Secretary,

II Floor, Mythrivanam,
HUDA Complex, SR Nagar, Hyderabad

..... APPELLANT

AND

1 M/s Leeladhar Narnjee & sons, Partnership concerned,

Registered Under the Partnership Act, having its Office
situated at "Draksha Vatika", Thimmapur, Mahaboobnagar

District. Reg.No.(2652/1964), rep. by
Mr. Donepudi Krishna Sumanth
2 The Director, Town & Country Planning, Hyderabad
3 The District Collector, Mahaboobnagar District
4 The District Revenue Officer, Mahaboobnagar District.

.....RESPONDENTS

Counsel for the Appellant :Mr. S.V.BHATT

Counsel for the Respondents: G.P. FOR MUNCIPAL ADMN. &

URBAN DEVELOPMENT

Mr. L.Prabhakar Reddy

Govt. Pleader for Revenue

WRIT APPEAL NO : 1202 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 22-01-2004 in W.P.No.25474 of 2003 on the file of the High Court.)

Between:

A.P. Pollution Control Board,

rep. by its Member Secretary,

II Floor, Mythrivanam,

HUDA Complex, SR Nagar,

Hyderabad - 500 038.

..... APPELLANT

AND

1 Sri Narender Gopal Badlwa,
R/o.H.No. 20-4-226/2, Moti Galli, Hyderabad - 500 002.
2 Sri Jaidev Baklwa
R/o.H.No. 20-4-226/2, Moti Galli, Hyderabad - 500 002.
3 Smt. Padma Devi,
R/o.H.No. 20-4-226/2, Moti Galli, Hyderabad - 500 002.
4 The Director, Town & Country Planning, Hyderabad.
5 The District Collector, Mahaboobnagar District.
6 The District Revenue Officer, Mahaboobnagar District.

.....RESPONDENTS

Counsel for the Appellant :Mr.S.V.BHATT

Counsel for the Respondents: G.P. FOR MUNCIPAL ADMN. &

URBAN DEVELOPMENT

Mr. L.Prabhakar Reddy

Govt. Pleader for Revenue

The Court made the following :

COMMON JUDGEMENT: (Per Hon'ble the Chief Justice)

We have heard learned counsel for the appellant – A.P. Pollution Control Board and learned counsel for the writ petitioners – respondents. Challenge by the A.P. Pollution Control Board to the common order passed by the learned single Judge on 22-01-2004 in W.P.Nos.25474 and 25476 of 2003 is limited one confined to that part by which the learned single Judge held that the guidelines contained in the letter of A.P. Pollution Control Board dated 21-01-1997 having no legal or statutory force.

Writ petitioners submitted their applications seeking approval of layouts for

residential purposes. The Director, Town and Country Planning, Hyderabad, considered the applications but rejected the same by separate proceedings dated 17-11-2003. The main ground of rejection of applications was that lands covered by the proposed layout was within one kilometre from L.P.G. Bottling Plant of Indian Oil Corporation. Additional ground was also mentioned in the case of writ petitioners in W.P.No.25474 of 2003 that site under reference falls in “industrial use zone” as per the Indicative Land Use Plan of Mandal Headquarters. In the case of writ petitioners in W.P.No.25476 of 2003, two more grounds were mentioned in the order of rejection that layout does not have access through an established Gram Panchayat road and that part of the land on the western side has already been sub-divided unauthorisedly into plots and roads without obtaining any approval of layout. On behalf of writ petitioners it was urged before learned single Judge that sanction of layout is governed by the relevant provisions of A.P. Town Planning Act and Rules framed thereunder. Applications seeking layout have to be considered only on the basis of criteria stipulated thereunder. Since the writ petitioners did not propose to establish an industry and layout was only for residential purpose, the Director, Town and Country Planning, ought not to have ascertained the views of A.P. Pollution Control Board. Even if certain views were asked for, the same would not have been taken into account while taking decision to grant or not to grant approval. On behalf of writ petitioners it was further urged that the guidelines issued by the A.P. Pollution Control Board had no statutory or legal force. The learned single Judge on going through the material on record concluded that the order of rejection was bad in law and the request for approval of layout deserves to be considered afresh by the Director of Town and Country Planning, and since it was approval of layout for residential purpose, views of A.P. Pollution Control Board were not necessary. While holding so, certain observations are made by the learned single Judge on the legality and validity of the guidelines and then proceeded to make observation that the guidelines contained in the letter dated 21-01-1997 have no legal or statutory

force. With the remaining part of the order, there is no grievance of the appellant. It is submitted that the learned single Judge ought to have seen that the guidelines to which the reference has been made are in consonance with letter and spirit of environmental laws. Persons governed by the guidelines are industries and those who have chosen have to abide by the guidelines and since learned single Judge concluded that layout was for residential purpose, it was not at all necessary for the Director, Town and Country Planning to have ascertained the views of A.P. Pollution Control Board and for that reason, there was no occasion for the learned single Judge to have gone into the question of legality and validity of the guidelines. We find much force in the submission of learned counsel for the appellant.

Once the learned single Judge had concluded that approval of layout was for residential purpose and it was also the case of appellants that in such an eventuality views of

A.P. Pollution Control Board may not have been asked, learned single Judge ought not to have ventured to go into the wider question that whether or not the guidelines are having legal validity or having statutory force. Deciding such serious question was not called for in such like petitions where prayer for approval of layout for residential purpose has been rejected and admittedly, views of A.P. Pollution Control Board were not at all required and ought not to have been solicited. Consequently, the appeals are allowed and only the order of the learned single Judge which holds that guidelines contained in the letter dated

21-01-1997 have no legal or statutory force is set aside. We also make it clear that the Director, Town and Country Planning, Hyderabad, will proceed to consider the request for approval of layout plan in accordance with law and without reference to the A.P. Pollution Control Board or its guidelines.

Writ Appeals are accordingly allowed.

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DEVINDER GUPTA, C.J.

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C.V.RAMULU, J

05-08-2004

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To

1. The Director, Town & Country Planning, Hyderabad.
2. The District Collector, Mahaboobnagar District.
3. The District Revenue Officer, Mahaboobnagar District.

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